

1 Wo Of Ideafarm  
2 211 Hope Street, #276  
3 Mountain View, CA 94042  
4 (650) 804-1311

5 Plaintiff, pro se

6 Notice: Electronic service accepted at  
7 **ideafarmcity@gmail.com**

**FILED**

OCT 28 2016

SUSAN Y. SOONG  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE

#5  
ifp

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8 UNITED STATES DISTRICT COURT  
9 NORTHERN DISTRICT OF CALIFORNIA, SAN JOSE DIVISION

10 IdeaFarm, Wo Of  
11 Plaintiff

12 v.

13 Mountain View Police Dept., et al  
14 Defendant

**CV 16-06270** **EJD**  
Case # \_\_\_\_\_ **NC**  
**E-FILING** Complaint  
**ADR**

15 1. **Jurisdiction:** This complaint is pursuant to 42. U.S.C. 1983 and to the *Due*  
16 *Process Clause*, the *First Amendment*, and the *Fourth Amendment* to the United States  
17 Constitution.

18 2. **Venue:** All parties reside or work in this district. All of the acts and omissions  
19 occurred within this district.

20 3. **Intradistrict Assignment:** This suit should be assigned to the San Jose Division  
21 because all parties reside or work within, and all acts and omissions occurred within,  
22 Mountain View, CA.

23 4. **Plaintiff Wo Of Ideafarm** wants to be, but is prevented from being, a sign holding

1 speaker of ideas about the upcoming Presidential Election on November 8, 2016.

2 **5. Agency Defendant: Mountain View Police Department (of the City of Mountain**  
3 **View, CA), hereafter MVPD.** 1000 Villa Street, Mountain View, CA 94041 ; (650) 903-  
4 6395. **Attorney:** Jannie Quinn, City Attorney, 500 Castro Street, 3<sup>rd</sup> Floor, City Hall,  
5 Mountain View, CA 94041 ; (650) 903-6303.

6 **Individual Defendants:** Officer S. Nelson, N2034. Officer T. Low.

## 7 **STATEMENT OF FACTS – SUMMARY**

8 Defendant Mountain View Police Department (MVPD) is preventing Plaintiff Wo Of  
9 Ideafarm from speaking by holding a sign and using a 15-watt megaphone while  
10 standing as a pedestrian on the roadway or sidewalk on a public street (El Camino  
11 Real at Castro Street). MVPD is silencing Plaintiff by (1) abusing State Court process  
12 under color of the authority of *California Vehicle Code 21954(a)* and *California Penal*  
13 *Code 370/372* (public nuisance), and, when citing *PC 370/372*, by (2) arresting,  
14 imprisoning, and prosecuting without probable cause and without adequate notice  
15 regarding what is and is not permitted by State law. Plaintiff's speech is also chilled by  
16 willful intimidation by an MVPD officer that has used force and violence, including the  
17 intentional infliction of pain and fear, when seizing Plaintiff's person when there was no  
18 resistance to the arrest. All four incidents were recorded by multiple video cameras,  
19 including police body cameras, and by an audio recorder worn by Plaintiff.

## 20 **STATEMENT OF FACTS – DETAILS (VERIFIED DECLARATION)**

1 The undersigned Plaintiff Wo Of Ideafarm declares under penalty of perjury under the  
2 laws of the State of California that:

3 1. Every day between now and Election Day, from 3 PM to sunset, I want to be a  
4 pedestrian on either the roadway or the sidewalk, at my option, at El Camino Real at  
5 Castro Street holding a sign displaying a political message to motorists passing  
6 through the intersection or queued waiting for green traffic control signals, and using a  
7 15-watt megaphone to speak my sentiments.

8 2. When I am standing on the roadway, I am not violating any Vehicle Code provision  
9 and, in particular, I obey VC 21954(a). When I use my 15-watt megaphone, I am not  
10 violating any Mountain View ordinance.

11 3. I began my "speech operation" on October 16, 2016, but MVPD officers have  
12 interfered by unreasonably issuing four notices to appear without probable cause, by  
13 arresting me twice<sup>1</sup> at approximately 6 PM, and by unlawfully transporting me to San  
14 Jose Main Jail where I was, on both occasions, unlawfully imprisoned until 2 AM in the  
15 first incident and until 9 PM in the second incident. (No PC 853.6 exception was  
16 claimed.)

17 4. An MVPD sergeant told me that the only way that I can avoid Penal Code 370/372  
18 arrest and prosecution is "by leaving" and that, in particular, refraining from using the  
19 megaphone would not suffice.

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1 Oct. 19, 2016: MVPD case 1606840. Oct. 23, 2016: MVPD case 1606938.

1 5. During the second arrest, the transporting MVPD officer told me that the arresting  
2 officer did not personally observe probable cause but rather that the basis for the arrest  
3 was that 911 dispatch had received numerous complaints that my speech was  
4 “bothering” people and that the arresting officer made the arrest on the order of a  
5 supervising sergeant who was no longer at the scene.

6 6. MVPD officers refused to tell me what time, place, manner restrictions I must  
7 conform to in order to avoid arrest for *Penal Code 370/372*. During both *PC 370*  
8 arrests, the arresting officer refused to state probable cause, which for public nuisance  
9 is (1) an act, (2) a factual context, and (3) a public right that the act tends to interfere  
10 with unreasonably. (*McDonald (2006)*)<sup>2</sup>

11 7. During the first arrest, which I did not resist, I suffered excessive force and violence,  
12 including the intentional infliction of pain as an officer twisted my arm at the wrist to the  
13 point where I feared that my arm would break at the elbow.

14 8. I would resume speaking but am in great fear of more violence and imprisonment.

15 9. During the most recent arrest, MVPD officers seized my two megaphones “as  
16 evidence” and maliciously damaged my sign structurally.

17 10. All of these four incidents were recorded by one video camera mounted on a tripod  
18 plus two video cameras mounted on a bicycle helmet that I was wearing, plus an audio

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2 *People v. McDonald, 40 Cal. Rptr. 3d 422 - Cal: Court of Appeal, 1st Appellate Dist.,*  
2nd Div. 2006.

1 recorder that I was wearing on my chest, and in every incident I was told by a police  
2 officer that all officers involved in the incident, including the transport officers, were  
3 wearing body cameras that were recording.

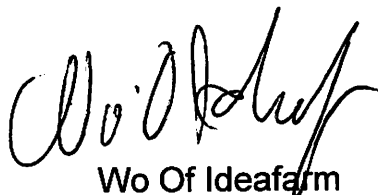
4 11. In any confrontation with police, I always suffer fear of being killed because on two  
5 prior occasions law enforcement officers have drawn their weapons on me.

6 12. I have been totally silenced by these fears and by the expectation that any attempt  
7 to speak will result in more violence and imprisonment and the confiscation or  
8 destruction of my speech equipment.

9 13. The election is only 7 days away. Every day that passes with Plaintiff silenced is  
10 an irreparable loss. If I cannot obtain relief immediately, I will have no choice but to  
11 resume speaking, which will likely result in more charges, more imprisonment, more  
12 danger of violence and pain, more silencing, and more destruction or confiscation of  
13 my speech equipment.

14 14. If the Court denies relief, the likely outcome will be that I will be silenced from now  
15 through November 8 and will spend most of those days, and beyond, imprisoned, and  
16 will suffer legal jeopardy and the other burdens of additional criminal public nuisance  
17 charges.

18 Signed,

  
Wo Of Ideafarm

10/28/2016  
Date

19

1 In support of the declaration, four notices to appear and two "Pre Booking Information  
2 Sheet" forms are attached as exhibits.

### 3 **CLAIMS**

4 **Count 1:** In violation of 42 U.S.C. 1983, on October 16, 2016, at approximately 1736,  
5 Officer S. Nelson deprived Plaintiff of his right to speak and to freedom of movement  
6 and to suffer legal jeopardy without probable cause, by executing a notice to appear for  
7 an infraction violation of *California Vehicle Code 21954(a)* without probable cause.

8 **Count 2:** In violation of 42 U.S.C. 1983, on October 16, 2016, at approximately 1755,  
9 Officer S. Nelson deprived Plaintiff of his right to speak and to freedom of movement  
10 and to suffer legal jeopardy without probable cause by executing a notice to appear for  
11 an infraction violation of *California Vehicle Code 21954(a)* without probable cause.

12 **Count 3:** In violation of 42 U.S.C. 1983, on October 19, 2016, at approximately 1809,  
13 Officer T. Low deprived Plaintiff of his right to speak and to freedom of movement and  
14 to be free of unreasonable searches and seizure of his property and person by  
15 executing a notice to appear for a misdemeanor violation of *California Penal Code*  
16 *370/372* (public nuisance) without probable cause and without adequate notice of what  
17 the law does and does not allow. Contrary to both State (*Penal Code 853.6*) and  
18 Federal Law (*Fourth Amendment*), Plaintiff's person was searched and seized,  
19 transported from Mountain View to San Jose Main Jail, and imprisoned until 2 AM the

1 next day.

2 **Count 4:** In violation of 42 U.S.C. 1983, on October 19, 2016, at approximately 1809,  
3 Officer T.Low battered Plaintiff by applying nonlethal force in an arrest in which Plaintiff  
4 did not resist and by using nonlethal force to willfully and with malice inflict pain by  
5 twisting Plaintiff's arm with enough force to nearly break Plaintiff's arm at the elbow.

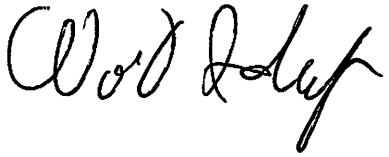
6 **Count 5:** In violation of 42 U.S.C. 1983, on October 23, 2016, at approximately 1707,  
7 Officer S. Nelson deprived Plaintiff of his right to speak by unreasonably executing a  
8 notice to appear for a misdemeanor violation of *California Penal Code 370/372* (public  
9 nuisance) without probable cause and without adequate notice of what the law does  
10 and does not allow. Contrary to both State (*Penal Code 853.6*) and Federal Law  
11 (*Fourth Amendment*), Plaintiff's person was searched and seized, transported from  
12 Mountain View to San Jose Main Jail, and imprisoned until 9 PM.

## 13 **REQUEST FOR RELIEF**

14 1. Plaintiff seeks **immediate emergency temporary injunctive relief** so that he can  
15 speak during the seven days that remain before the Presidential Election. Time is of  
16 the essence.

17 2. Plaintiff also seeks monetary damages of \$6000, which is the total of \$1000 per  
18 each of two infraction "cite and releases" without probable cause plus \$2000 per each  
19 of two misdemeanor arrests, imprisonments, and prosecutions without probable cause.

1 Signed,

A handwritten signature in black ink, appearing to read "Wo Of Ideafarm".

10/28/2016

2 Wo Of Ideafarm

Date